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REMARKS

Applicant appreciates the attention of the Examiner to the application. The Office Action of the Examiner of October 18, 2005 has been reviewed with care in the preparation of this response. The following remarks are believed to be fully responsive to this action.

Status of Claims

Claims 1-30 are pending. The pending claims set forth a novel and non-obvious housing for a light fixture and method for fabrication of a light fixture. Reconsideration and allowance of all pending claims is respectfully requested in view of the following remarks.

Claims 1-13, 15, and 17-30 were rejected under 35 U.S.C. §102(b) as being anticipated by a Lutrex brochure on the Torx model ceiling fixture. Claims 14 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Lutrex as applied to claim 13 and further in view of Blandford (U.S. Patent No. 6,720,566).

Applicant now turns to the particular points raised by the Examiner in the Office Action of October 18, 2005.

Rejection of Claims 1-13, 15, and 17-30 under 35 U.S.C. §102(b)

Claims 1-13, 15, and 17-30 were rejected under 35 U.S.C. §102(b) as being anticipated by what the Examiner states is a "Lutrex Products brochure (CC 2000)." Claims 2-13, 15, and 17-22 are dependent to independent claim 1. Claims 24 and 25 are dependent to independent claim 23. Claims 28-30 are dependent to independent claim 27.

Two Lutrex documents were filed by Applicant in an Information Disclosure Statement dated November 12, 2003. One document is a printout from the Lutrex website (www.lutrex.com) consisting of three pages and having a copyright of 2000. This document has two photographs of the Torx lighting fixture, each having an alternate diffuser. The third page of this document is a blow-up of the photograph on the first page. The second document is a printout from the same website consisting of four pages, the first two pages having a copyright of

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2003 and the last two setting out specifications for the Torx product line having a copyright of January, 2003.

The reference by the Examiner to a "brochure" from Lutrex is unclear since all of the documents are simply web-pages printed off of a website. In the bottom paragraph of page 2 of the Office Action, the Examiner states, however, that "... Lutrex Products disclose on pages 1 and 3 a housing as shown bellow (sic) ..." A diagram of the housing of a Torx light fixture housing is then shown on page 3 of the Office Action. This diagram is from page 3 of the web-pages having a copyright from 2003. The reliance by the Examiner therefore on any disclosure or description provided solely by the pages comprising the second document is misplaced. Their date of publication, as reflected by their copyright, appears to be less than one year before the filing date of the present application, September 5, 2003, and thus would not constitute prior art under §102(b).

Moreover, each of the independent claims 1, 23, 26 and 27 requires a body having a sidewall with a plurality of fin-engaging elements and at least one fin removably engaged with at least one of the fin-engaging elements. Anticipation requires that the identical invention to that contained in a claim be described in a single prior art reference. Richardson v. Suzuki Motor Co., 868 F.2d 1226, 9 USPQ 2d 1913 (Fed. Cir. 1989).

The Examiner in the final Office Action states that the housing shown in the Lutrex Products reference has "slots that holds the fins." Applicant respectfully submits that there is no support for such an assertion. Although the extruded aluminum ballast housing shown in the materials from Lutrex is ribbed, the specification sheets set out that this feature is "to ensure heat dissipation and cool operation." There is nothing in this reference that discloses that the lateral faces on this ribbing, the feature clearly defining the spacing or "slots" between adjacent ribbing, engage any of the fixture's four side reflector blades when these blades are positioned between them within such spaces. The reference therefore clearly fails to show or describe how these "slots" hold in any manner such "fins." Quite to the contrary, each of the blades appear to be rigidly secured to some recessed surface of the housing such as by means of spot or seam welding after they are received within these gaps.

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Even if the spacing between the ribbing of the ballast housing would be said to engage the blades of the Torx product in some manner, the Lutrex Products reference still lacks any teaching or showing that any of these blades are removable. Nowhere in the final Office Action does the Examiner state that this limitation in claims 1, 23 and 27 is even present in the reference. The present invention with its fins removably engaged to the fin-engaging elements is structurally distinct from the Lutrex housing. The claimed housing is one that allows for each fin that is mounted within a fin-engaging element to be easily removed so that it can be done as often as desired. This makes possible the achievement of a desirable customized lighting fixture through the selection of different fins or a different configuration of the fins and then the simple placement of these fins back within the engaging elements of the housing.

Independent claim 26 requires that the body of the housing have a sidewall with a plurality of slots formed in the sidewall with each slot having a channel attached to the interior surface of the sidewall. The claim also sets forth that the housing have a plurality of fins where each fin has a pair of flanges extending from its rear edge and is removably engaged with at least one of the slots. Each slot is formed to slidably receive and engage each fin whereby the flanges of the fin engage the interior surface and are slidably received and engaged by the slot's channel so that the fin is held in place. Claim 26 further states that the housing includes at least one strip having a series of LED elements that is secured between at least one fin made from translucent material and at least one channel.

None of these limitations is disclosed by the Lutrex Products reference. This is undisputed by the Examiner since he fails to point out anywhere in the final Office Action what features are shown in the pictures or are described in the writings of this reference that he considers to teach any of these claimed elements. There is therefore no support for his summary rejection of claim 26 as being anticipated by Lutrex.

For each of the above reasons, the housing for a light fixture described in independent claims 1, 23, 26 or 27 is not anticipated by the Lutrex Products reference. Claims 2-22, 24-25, and 28-30 are dependent from these claims. Applicant respectfully asks that the rejection of claims 1, 23, 26 and 27 be withdrawn and that claims 1-30 be allowed.

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Specific Rejection of Claims 3-6, 11-13, 19, 24-25, and 28-29 under 35 U.S.C. §102(b)

Claim 3 adds the limitation that the housing have a plurality of fins that are equivalent to the plurality of fin-engaging elements. This claim is allowable at least by virtue of its dependency from claim 1. The Torx product line is clearly shown in the photographs of the Lutrex Products reference as having half as many blades as gaps between the ribbing of its ballast housing, even if these gaps were blade-engaging. For this additional reason, Applicant believes that the specific rejection of claim 3 has been traversed.

Claims 4 and 25 require that the plurality of fins be less than the plurality of fin-engaging elements whereby the fins are selectively placed around the sidewall of the housing. While the blades disclosed in the Lutrex Products reference are indeed less than the supposed "slots" in the ballast housing, there is no teaching or suggestion in that reference that these blades can be selectively placed. Quite to the contrary, given their size and location upon the Torx housing, each blade appears to need to be positioned opposite from a nearly identical blade in order to keep the fixture in proper balance. On this basis, even though this claim is allowable at least by virtue of its dependency from claim 1, Applicant submits that the specific rejections of claims 4 and 25 should also be withdrawn.

Claim 5 adds the limitation that at least one fin differs from another in shape, color or material. This claim is allowable at least by virtue of its dependency from claim 1. Claim 24 adds the step of choosing one fin from a group of fins of differing character. This claim is also allowable at least by virtue of its dependency from claim 23. Neither of these elements in claims 5 and 24 are disclosed by the Lutrex Products reference. In particular, Lutrex teaches only four blades of identical shape, identical color and identical material. While different colors may be available for painting the blades so that they match the color of the ballast housing, nowhere on any of these pages from the Lutrex website is it suggested that any one blade be painted a different color from any of the other three. Applicant therefore submits that claims 5 and 24 are specifically not anticipated by the reference cited by the Examiner and that both claims should be allowed.

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Claim 6 sets forth that at least one fin have a surface displaying indicia. Claim 6 is also allowable on the basis at least of its dependency from claim 1. Indicia are well understood to constitute distinctive markings such as those shown in FIGS. 6D and 6E of the present application. The Lutrex reference discloses no indicia on any of the blades mounted on the Torx ceiling pendant. While the blades are shown and described as being provided by Lutrex with or without perforations, these are not indicia displayed on the surface of the blades. The specific rejection of claim 6 is therefore asked to be withdrawn for this reason.

Claim 11 requires that each fin have at least one stop extending from a rear edge where the stop engages the interior surface of the sidewall and holds the fin in place when inserted into one of the slots formed in the sidewall. Claim 12 depends from claim 11 and adds the limitation that each slot have a catch attached to the interior surface. Claim 13 depends from claim 12 and sets forth that the stop on the fin is a pair of flanges and that the catch is a channel running the length of the slot. These claims are allowable at least by virtue of their dependency from claim 1. Nevertheless, none of these limitations is disclosed by the Lutrex Products reference.

This is not rebutted by the Examiner since he does not point out anywhere in the final Office Action what he considers to be the features shown in the pictures of the Torx product or described in any of the associated writings that may in fact teach any one of these claimed elements. There being a lack of any support in this reference cited by the Examiner for these specific rejections, claim 11, 12 and 13 and any claims that depend from them should be allowed. Likewise, since one or more of the limitations in claims 11-13 are included in claim 28, its specific rejection should also be withdrawn.

Claims 19 and 29 set forth the requirements that each fin have first and second tabs extending from opposite ends of a rear edge so that a cap-rim fastened to the top-edge of the body of the housing can receive and capture each of the first tabs and a collar-rim fastened to the bottom-edge of the body can receive and capture each of the second tabs. In this manner, each fin is held in place by the cap-rim and collar-rim. Claims 19 and 29 are allowable at least by virtue of their dependency from claims 1 and 27 respectively. No tabs on a rear edge of the blades for the Torx lighting fixture is disclosed by the Lutrex Products reference. Furthermore,

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no cap-rim or collar-rim fastened to the body of the ballast housing is shown or described in the cited reference that is capable of receiving and capturing such tabs. Absent these features, the specific rejections of claims 19 and 29 are traversed and these claims and any that are dependent to them are in position for allowance.

Rejection of Claims 14 and 16 under 35 U.S.C. §103(a)

Claims 14 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Lutrex reference and further in view of Blandford. Any combination or modification of the prior art needed to establish obviousness must teach or suggest each and every one of the limitations set forth in the claims being rejected. MPEP §2143.03. Claims 14 and 16 depend from claims 1, 11, 12 and 13. As pointed out above with respect to the allowability of claims 1 and 11-13, limitations in each of those claims is not taught or suggested by the Lutrex reference. These deficiencies are not cured, however, by the secondary reference to Blandford.

Blandford is directed to a shutter 10 for use with a light source comprising two halves. Each half has two sections 12, 16 that retain a reflector liner 20 between a first lip 50 and a second lip 48. Attachment of second section 16 to first section 12 allows the reflector liner 20 to be precisely and correctly captured between the two sections and to be held firmly against their inner receiving surfaces 14, 18. (Blandford at col. 5, lines 17-66). While first section 12 is provided with fins 22 on its upper surface, these fins are an integral part of first section 12 since first section 12 is an extruded piece of aluminum. (Blandford at col. 5, lines 24-27).

No sidewall of a housing for a light fixture having fin-engaging elements is taught or suggested in Blandford. The housing referred to by the Examiner in the final Office Action is the reflector liner, not the lamp housing. Even if it was, this liner has no fin-engaging elements. Neither is any fin-engaging element shown on either the first section 12 or on the UV lamp housing (not shown). Moreover, since fins 22 are unitary with first section 12, not one fin is disclosed as being removably engaged to any fin-engaging element. In addition, (1) no slots formed in the sidewall of the housing; (2) no fins having at least one stop extending from a rear edge, much less where the stop is a pair of flanges; and (3) no catches attached to the interior

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surface of the sidewall, much less where each catch is a channel running the length of the corresponding slot, are taught or suggested by this reference.

In addition, contrary to the representation made by the Examiner in the final Office Action, the set screw of claim 14 supposedly disclosed by Blandford as being inserted in one end of a channel attached to the interior of the housing between the channel and one of the flanges on the fin received by that channel is instead a clamping bolt 46 inserted through bolt holes 49 provided on second section 16 for the purpose of attaching first section 12 to second section 16 of shutter 10. (Blandford at col. 6, lines 4-9). No fins secured firmly in channels by the bolts is taught or suggested by the reference.

Claim 16 adds the limitation that at least one strip including LED elements be secured between at least one fin made from translucent material and a channel on the interior surface of the housing so that the strip's light is received by the fin. Neither Lutrex nor Blandford teach or suggest an LED strip or a transparent fin, much less such a strip secured between the fin and a channel on the housing. While the Examiner contends that replacement of incandescent or fluorescent lamps with LED elements was known to one skilled in the art at the time of this invention, this serves as no motivation for any modification of the prior art cited since no incandescent/fluorescent lamps illuminating a transparent fin are taught or suggested in Lutrex or Blandford for which such a replacement may have been obvious.

Obviousness under 35 U.S.C. §103(a) can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. In re Jones, 958 F.2d 347 (Fed. Cir. 1992). There must be more of a justification for modifying a piece of prior art than solely the fact that it happened to have been known at the time of the invention. The mere fact that a reference can be modified does not render the resultant modification obvious unless the prior art also suggests the desirability of the modification. MPEP §2143.01.

This lack of any showing by the Examiner of the motivation needed for one skilled in the art to select and then combine the Lutrex Products reference with Blandford, along with the other

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reasons discussed above, establishes that a prima facie case of obviousness has not been made by him to maintain the rejections of claims 14 and 16. Applicant believes therefore that these rejections should also be withdrawn and that each of these claims and any claims depending from them be allowed.

Conclusion

Applicant's invention, as set forth in the pending claims, represents a highly novel housing for a light fixture and method for fabricating a light fixture. Applicant believes that now pending claims 1-30 each have elements not disclosed or suggested in the prior art. Applicant respectfully submits that all rejections in the Office Action have been traversed by argument, placing the application in condition for allowance. Early favorable action is earnestly solicited. The Examiner is invited to call the undersigned if such would be helpful in resolving any issues that might remain.

Respectfully submitted,



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Dated: January 18, 2006

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